IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P.No.5356 of 2005
Date of Decision: 10.5.2007

Amrik Singh Vs. Joint Development Commissioner, Punjab and others.

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Present : Mr.Vikas Bahl, Advocate for the petitioners.
Mr. N.D.S. Mann, Addl.A.G. Punjab.

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CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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RAJIVE BHALLA, J

Challenge in the present writ petition is to the orders dated 10.11.2004 and 22.12.2004 passed by the Joint Development Commissioner, Punjab (exercising the powers of the Commissioner), under the Punjab Village Common Lands (Regulations) Act, 1961 (hereinafter referred to as `the Act') accepting an appeal filed by the Gram Panchayat-respondent no.3 and dismissing an application for review filed by the petitioner.

The petitioner's refrain briefly put is that in the absence of any application filed under Section 11(1) of the Act, the Joint Development Commissioner had no jurisdiction to entertain the appeal filed by the Gram Panchayat under Section 11(2) of the Act.

The petitioner, claiming to be lessee of the Central Government

and in possession of the land in dispute, filed a suit for permanent injunction before the District Development and Panchayat Officer-cum-Collector (D.D.P.O.) to restrain the Gram Panchayat from dispossessing him, except in due course of law. It was pleaded that as per revenue record, the land belonged to the Central Government and the Gram Panchayat had no right to the land. The D.D.P.O. vide order dated 2.5.2000, dismissed the suit, by holding as follows :-

> "This case was presented today and after perusing the record, I have come to the conclusion that the land in dispute is ownership of Central Government. The Panchayat has no right over the same. As per the revenue record, the Mutation has been sanctioned in favour of the plaintiff on 15.12.1961. Since in the ownership column, the land in dispute is shown to be of Central Government, therefore, this Court has no jurisdiction to entertain this case. Therefore, this case is beyond the jurisdiction of this Court. This file be therefore consigned to the record."

The D.D.P.O., thus, while holding he had no jurisdiction held that the land in dispute was owned by the Central Government and the Panchayat had no right over the land.

The Gram Panchayat, thereafter, filed an appeal under Section 11(2) of the Act, praying that the aforementioned order be set aside. Vide order dated 10.11.2004, it was held that the Gram Panchayat was the owner of the land and as there was no evidence of issuance of any notice to the

Gram Panchayat, the order passed by the D.D.P.O. was illegal and without jurisdiction.

Counsel for the petitioner concedes that the suit filed by them before the D.D.P.O. was not maintainable and, therefore, the observation recorded by the D.D.P.O., were without jurisdiction. It is, however, contended that while entertaining the appeal, filed by the Gram Panchayat, the Joint Development Commissioner,illegally declared the Gram Panchayat to be the owner of the disputed land. It is contended that as no application was filed under Section 11(1) of the Act and no adjudication in accordance with the provisions of Section 11(1) of the Act was ever made, the appellate authority exceeded his jurisdiction in holding that the Gram Panchayat was the owner. It is further contended that the ex-parte order passed by the appellate authority, be also set aside.

Counsel for the respondent, however, contends that as the D.D.P.O. returned a finding that the land vested in the Central Government, the Gram Panchayat had no option but to file an appeal under Section 11(2) of the Act. The Joint Development Commissioner, rightly held the Gram Panchayat as owner of the land in dispute.

We have heard learned counsel for the parties and perused the paper book.

The present case discloses an abject failure of jurisdiction on the part of the D.D.P.O., as also the Joint Development Commissioner.

While holding that he had no jurisdiction, to entertain the suit, the D.D.P.O. had no jurisdiction to make observations that the property belonged to the Central Government. The appellate authority, namely; the Joint Development Commissioner, though justified in holding that the D.D.P.O. had no jurisdiction to make the above observations, proceeded in total disregard to its jurisdiction, as an appellate authority, to hold that the Gram Panchayat was owner of the land. The appellate authority, disregarded the fact that the D.D.P.O. had not proceeded to adjudicate the question of title, under Section 11(1) of the Act and had specifically held that the application filed by the petitioner was not maintainable. In the absence of any adjudication, as to the question of title, by the D.D.P.O., in terms of the provisions of Section 11(1) of the Act, the appellate authority, erroneously proceeded to examine the question of title and hold the Gram Panchayat as owner of the disputed land. The appellate authority's conclusion that the Gram Panchayat was the owner of the land was, thus, without jurisdiction. The appellate authority, in all fairness should have directed the parties, to approach the Collector/D.D.P.O. by way of an application, under Section 11(1) of the Act, to seek adjudication, of their respective rights. Authorities, established by special statutes do not possess plenary or inherent jurisdiction to make declarations of title. Section 11 of the Act is a complete Code for adjudication of disputes regarding title.

We are satisfied that both D.D.P.O. and the Joint Development Commissioner exceeded their respective jurisdictions rendering their orders illegal and void. However, we are cognizant of the fact that the petitioner claims possessory title as lessee, from the Central Government, whereas the Gram Panchayat claims ownership and alleges that the petitioners are

unauthorized occupants. Consequently, we set aside the orders dated 2.5.2000 passed by the D.D.P.O. and orders dated 10.11.2004 and 22.12.2004 passed by the Joint Development Commissioner as being void. The parties are,however, at liberty to seek adjudication of their respective stands, in accordance with law. Any expression of opinion, as to the merits of the respective contentions,in the impugned orders shall not be construed to be an expression of opinion on the merits of the case.

The present petition stands disposed of accordingly.

(RAJIVE BHALLA)
JUDGE

10.5.2007
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(P. SATHASIVAM)
JUDGE